

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH FLEMING and JOHN DOE,

Plaintiffs,

v.

THE CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation
sole, a/d/a "MORMON CHURCH"; LDS
SOCIAL SERVICES a/d/a LDA FAMILY
SERVICES, a Utah corporation,

Defendants.

NO. C04-2338 RSM

**[PROPOSED] ORDER FOR ISSUANCE
OF LETTERS ROGATORY**

Note for Motion: September 26, 2005

THIS MATTER having come on for hearing before the above-captioned Court on plaintiffs' Kenneth Fleming and John Doe ("Plaintiffs") motion for an order issuing Letters Rogatory, attached as Exhibit A, to the appropriate authority in British Columbia, Canada in order to depose Jack Loholt, a/k/a Jack Onefrey (hereinafter, Jack "Loholt" Onefrey).

The Court considered Plaintiffs' motion, the declaration of Steven T. Reich in Support of Plaintiffs' Motion for Letters Rogatory, and the exhibits attached thereto, any papers filed in response or reply, and the pleadings and records on file herein.

ORDER FOR ISSUANCE OF LETTERS ROGATORY - 1 of 3
(C04-2338 RSM)
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LAW OFFICES
GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500 - FACSIMILE (206) 676-7575

1 Based on the submitted briefing of counsel and the evidence presented, the Court finds
2 that:

- 3
- 4 1. The deposition testimony of Jack "Loholt" Onefrey will likely produce
5 material evidence in the pending litigation in the United States District
6 Court, Western District of Washington at Seattle.
- 7 2. Jack "Loholt" Onefrey resides in Lac La Hache, British Columbia,
8 Canada.
- 9 3. Plaintiffs seek to take the deposition of Jack "Loholt" Onefrey through
10 the issuance of Letters Rogatory.
- 11 4. Issuance of Letters Rogatory is authorized and appropriate under
12 FRCP 28(b), section 53 of the British Columbia Evidence Act,
13 R.S.B.C. 1996, c. 124 and the principle of comity of nations.
- 14 5. The Letters Rogatory attached as Exhibit A should be issued by this
15 Court and Jack "Loholt" Onefrey compelled to attend and testify at
16 deposition scheduled at a mutually agreeable time.

17 Based on the above findings, IT IS ORDERED:

- 18 1. Plaintiffs' motion is granted as to their requests for perpetuation
19 depositions.
- 20 2. The Court will issue the Letters Rogatory attached as Exhibit A to the
21 appropriate authority in British Columbia, Canada directing that Jack
22 "Loholt" Onefrey be compelled to attend his deposition and answer
23 questions regarding the circumstances surrounding the allegations at
24 issue in this litigation.
- 25
- 26

3. The testimony shall be reduced to writing, signed by the witness, certified and returned to the Clerk of this Court.

4. The parties will set the perpetuation deposition at Lac La Hache, British Columbia, Canada and at a mutually agreeable time insofar as possible depending upon the availability of the witness.

DONE IN OPEN COURT this _____ day of September, 2005.

RICARDO S. MARTINEZ
Judge, United States District Court,
Western District of Washington

Presented by:

By: s/ Steven T. Reich
Steven T. Reich
State Bar Number 24708
Attorneys for Plaintiffs

Approved as to form;
Notice of presentation waived:

STAFFORD FREY COOPER

By: _____
 Marcus B. Nash, WSBA No. 14471
 Thomas Frey, WSBA No. 1908
 Attorneys for Defendants

[26313-00001]